

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

JEFFREY MOLNAR and WESLEY
THORNTON, on behalf of themselves,
all others similarly situated, and the
general public,

Plaintiffs,

vs.

NCO FINANCIAL SYSTEMS, INC.,
a Pennsylvania corporation,

Defendant.

CASE NO. 13CV131 JLS (WMc);
CASE NO. 13CV685 JLS (WMc)

**ORDER (1) GRANTING MOTION
TO CONSOLIDATE RELATED
ACTION; (2) GRANTING MOTION
FOR LEAVE TO AMEND; (3)
DENYING MOTION TO
TRANSFER; AND, (4) DENYING
AS MOOT PENDING JOINT
MOTION TO CONTINUE
HEARING**

(ECF No. 18, 19, 24, 28)

Presently before the Court are Plaintiff Jeffrey Molnar and Wesley Thornton's ("Plaintiffs") Motion to Consolidate Related Action, (Mot. to Consolidate, ECF No. 19), Plaintiffs' Motion for Leave to File First Amended Complaint, (Mot. to Amend, ECF No. 24), and Defendant NCO Financial Systems, Inc.'s ("NCO") Motion to Transfer Venue Pursuant to 28 U.S.C. § 1404, (Mot. to Transfer, ECF No. 18). Also before the Court are the parties' associated oppositions and replies. (Resp. in Opp'n to Mot. to Consolidate, ECF No. 27; Reply in Supp. of ("ISO") Mot. to Consolidate, ECF No. 32; Resp. in Opp'n to Mot. to Amend, ECF No. 37; Reply ISO Mot. to Amend, ECF No. 41; Resp. in Opp'n to Mot. to Transfer, ECF No. 25; Reply ISO Mot. to Transfer, ECF No. 26).

1 Plaintiffs bring this putative nationwide class action against NCO under the
2 Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. NCO moves to
3 transfer this action to the Eastern District of Pennsylvania, arguing that the dispute has
4 no connection to the Southern District of California besides the location of Plaintiffs’
5 counsel. (Mot. to Transfer 2, ECF No. 18). Plaintiffs disagree. Plaintiffs contend that
6 the Court should retain jurisdiction over this suit, consolidate this action with a related
7 TCPA case that is pending before the Court, and allow Plaintiffs to amend their
8 complaint to add a new named plaintiff.

9 First, the Court agrees with Plaintiffs that this action should remain in the
10 Southern District of California. Although Plaintiffs do not reside in this forum, neither
11 do they reside in the Eastern District of Pennsylvania, and that forum would not be
12 especially convenient for any party besides NCO. Nor would a transfer serve the
13 convenience of any non-party witnesses, as no such witnesses have been identified.
14 The gains in efficiency from consolidating this action with the related case outweigh
15 any benefits of sending this suit to the Eastern District of Pennsylvania.

16 Second, the Court finds that consolidation of this matter with *House v. NCO*,
17 Case No. 13CV685 JLS (WMC), is appropriate, as both cases involve TCPA claims
18 against NCO and both cases involve similar allegations regarding unauthorized calls to
19 Plaintiffs’ cell phones. Although the factual allegations are not identical, the actions
20 appear to be similar enough that it would make little sense to have them proceed on an
21 entirely separate schedule for discovery and other pre-trial matters.

22 Finally, the Court will allow Plaintiffs to amend their pleading to add Aileen
23 Martinez, a California resident, as a named plaintiff. The Court is not persuaded that
24 Plaintiffs’ request for leave to amend is improper or will unduly prejudice NCO.

25 Accordingly, the Court **DENIES** NCO’s motion to transfer venue, **GRANTS**

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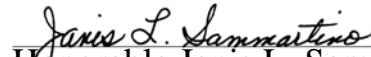
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1 Plaintiffs' motion to consolidate,¹ and **GRANTS** Plaintiffs' motion for leave to amend.
2 The pending Joint Motion to Continue Hearing Date, (ECF No. 28), is **DENIED AS**
3 **MOOT**.

4 **IT IS SO ORDERED.**

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6 DATED: November 22, 2013

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8 Honorable Janis L. Sammartino
9 United States District Judge
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28 ¹ The Court also **GRANTS** the Motion to Consolidate Related Action that is
pending in *House v. NCO*, Case No. 13CV685 JLS (WMc). (ECF No. 6).